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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: **Michael J. Picciallo et al.**

Serial No.: **09/781,715**

Examiner: **C. Kyle**

Filed: **February 12, 2001**

Group Art Unit: **3624**

For: **Controlled Entertainment Spending Account**

Attorney Docket No. **P22,425-E USA**

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence, along with any paper indicated as being enclosed, are being sent via facsimile addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 at (703) 872-9306 on June 30, 2005.

June 30, 2005  
Date

Peter J Butcher  
Director

Peter J Butcher

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

DECLARATION OF MICHAEL J. PICCIALLO PURSUANT TO 37 C.F.R. § 1.131

Michael J. Picciallo declares and states that:

1. I am the inventor named in the above-referenced patent application. I am making this Declaration to provide evidence that I reduced to practice, or at the very least conceived, the presently claimed invention before January 24, 1996.

2. My priority application as originally filed is attached hereto as Exhibit A. Exhibit A contains a three-page, hand-written disclosure dated January 4, 1996 that I mailed to the U.S. Patent and Trademark Office on January 5, 1996. A copy of my Certified Mail receipt dated January 5, 1996 is attached hereto as Exhibit B. Attached hereto as Exhibit C are a Notice of Incomplete Application and a Notice to File Missing Parts that I received from the Patent Office, both dated March 15, 1996. These documents reflect that the application was given a January 11, 1996 "receipt date," but it was not accorded a filing date because it lacked a claim. An executed declaration and drawings were also requested. These were

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mailed to the Patent Office on April 10, 1996 with a photocopy of the disclosure I filed on January 4. The drawings, claim and declaration that were added to the January 4 application are attached hereto as Exhibit D. My application was ultimately given an April 16, 1996 filing date. A copy of the filing receipt is attached hereto as Exhibit E.

3. While Exhibit A may not meet the requirements for a patent application, it certainly serves as a disclosure document, with correspondence from the Patent Office documenting that I was in possession of the invention as it is presently claimed on a date prior to January 24, 1996.

4. The disclosure states:

The philosophy of the Allowance Card and how it works is very simple. A major credit card company [such as] Visa, Master Card, Discovery [(sic)], Amex will be the support. Say John Doe has a card such as those stated above. He has a son and daughter in high school and wants to give them a monthly allowance but is afraid of just handing out money and where they are spending it. He has the card company issue two allowance cards under his main account. He tells the card company to take \$80.00 a month, charge it to his account, and put \$40.00 to each of children's allowance cards. They can only spend that \$40.00, no more[. If they choose to spend it quicker or slower within the month it is their choice[. The parent is disciplined not to give them anymore money until the next month and the kids are disciplined by the Allowance Card constraints.

Regarding Allowance Card constraints, the disclosure states that the "Allowance Card controls monies that are designated for certain purchasers by wage earners for their dependents," and "prohibits minors or dependents from possible purchases of alcohol, tobacco or controlled dangerous substances." The disclosure also states

This demonstrates possession of the subject matter for which I am claiming the benefit of an earlier filing date on a date prior to January 24, 1996.

5. Once informed of my idea, one skilled in the art can readily implement it by employing state of the art technology, such as that disclosed for example by U.S. Patent No.

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5,220,501. Thus, Exhibit B represents a fully-enabling description of how to practice my invention.

6. The foregoing statements and attached Exhibits thus demonstrate that I reduced to practice the claimed invention before January 24, 1996, or that at the very least I conceived of it prior to that date and then diligently performed a constructive reduction to practice through the filing either of my U.S. Patent Application No. 08/575,173 on April 16, 1995 (originally received by the Patent Office on January 11, 1996) or my U.S. Patent Application No. 08/876,929 on June 16, 1997.

7. Regarding whether any constructive to practice was diligent, a first Office Action issued in my April 16, 1996 application on December 16, 1996. The action is attached hereto as Exhibit F. The Action advised me to secure the services of a registered patent attorney or agent. I telephoned the Examiner who issued the Action, Examiner Pitts, who stressed that I needed to get an attorney.

8. I was concerned about being able to afford the services of an attorney. From the day I received the rejection, through January and early February I had a series of discussions regarding my financial concerns with a friend of mine, John Krusas. When we sat down for me to do his taxes in early February 1997 he assured me that he would assist me financially.

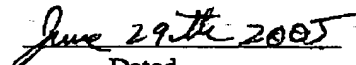
9. With this assurance, I met with a Patent Attorney, Peter J. Butch III on February 13, 1997. He recommended first doing a patentability search, the results of which he related to me orally sometime in April 1997. The results were positive, so I authorized him to proceed with the preparation of a patent application. Sometime in late May or early June 1997 I received a draft from him. We discussed changes to be made several times, and by June 16, 1997 I was satisfied and authorized him to file the application, which he did on the same day. I note that this was within the six month statutory deadline for responding to the December 16, 1996 Office Action.

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10. The foregoing documents my conception of the invention prior to January 24, 1996, my reducing it to practice through the filing of patent applications on April 16, 1996 and June 16, 1997, and my diligent efforts between January 24, 1996 and June 16, 1997. This is without prejudice to my position that my application in Exhibit B, which was originally received by the Patent Office on January 11, 1996 and received an April 16, 1996 filing date, represents a constructive reduction to practice of my invention.

11. I hereby declare that all statements made herein of my knowledge are true and that all statements made on information and belief are believed to be true and further that the statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the U.S. Code and that such willful false statements may jeopardize the validity of the application or any patent that issues thereon.

  
Michael J. Picciallo

  
Dated

TOTAL P. 05